DETAILED ACTION

Receipt is acknowledged of amendment filed on July 29, 2008. Claims 1, 2, 4-28 are pending, of which claims 14-28 have been withdrawn from consideration. Claim rejections made under 35 U.S.C. 103 (a) as indicated in the previous Office action dated April 1, 2008 are modified to address the new claim limitations.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 2, 4, 7-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ness et al. (US 6024943) in view of Bacon (US 5500138).

Ness discloses that melamine formaldehyde precondensate as a preferred encapsulating polymer for particles containing perfume materials. See col. 6, lines 14 – 34. The reference teaches that ten or more perfumery materials are in a perfume composition. See col. 7, line 1 - col. 8, line 30. The solvents or diluents used with the perfumes include diethyl phthalate and isoparaffin, disclosed in col. 8, lines 27-41. the reference also teaches specific consumer products such as fabric detergent composition, conditioners, and personal washing products, into which the encapsulated perfume materials may be incorporated. See col. 9, line 10 – col. 14, line 44; Examples. See instant claim 13. The reference teaches that the perfume is “absorbed” into the polymer carrier, and makes it clear that that the active perfume ingredient that is used is in the form of liquid. See col. 1, lines 50 - 59.

Although Ness does not specifically teach the amount of solvent or diluent based on the weight the weight of the capsule particle, differences in concentration generally will not support the patentability of subject matter encompassed by the prior art unless there is evidence indicating such concentration or temperature is critical. "[W]here the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation." See In re Aller, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955). In this case, since the reference teaches that choosing the right solvent affects the perfume uptake by the core polymer, the skilled artisan would have discovered an optimal weight amount of the solvent/diluent that would aid the liquid (perfume) absorption.

Ness does not disclose the ClogP value of the perfume materials used in the prior art invention.

Caswell discloses polyvinyl alcohol film encapsulating enduring fragrance materials for fabric softener. See abstract. The reference also teaches that it is preferred to have at least 7 different enduring perfume ingredients, meeting instant claim 10. Examples 3-8 show the amount of perfume materials added in the fabric softener compositions. See instant claim 13.

Bacon teaches in Table 1 the ClogP Table of the perfumes that are used in the perfumes of Seitz. The Bacon reference teaches that the example perfume composition of Enduring Perfume A comprises 65 % of perfume materials having Clog P of 4.0 or higher. See instant claim 2.

It would have been obvious to one of ordinary skill in the art at the time of the present invention to modify the teachings of Ness by incorporating the perfume mixtures of Caswell, because these reference teach enduring perfume mixtures suitable for fabric softer compositions. The skilled artisan would have had a reasonable expectation of successfully producing a controlled-release fabric softener with enduring fragrance.

Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ness, Caswell, and Bacon as applied to claims 1, 2, 4 and 7-13 as above, and further in view of Birch et al. (US 6927195 B2).

The combined references do not teach to double-coat the perfume particles.

Birch teaches particles suitable for inclusion in a dry laundry product, comprising a core of swellable material, containing perfume absorbed therein, the core being coated with water-soluble encapsulating material impervious to the perfume. See abstract. The coating is to prevent premature evaporation or dissipation from the particles of the loaded perfume until the coating is dissolved on contact with water in use, and also teaches using modified starches. See col. 9, lines 27-63.

It would have been obvious to one of ordinary skill in the art at the time of the present invention to modify the encapsulated perfume particles by double coating the surface, as motivated by Birch, because the latter teaches that the double coating prevents premature evaporation or dissipation of the perfume from the particles until use. The skilled artisan would have had a reasonable expectation of successfully producing encapsulated particles with a longer shelf-life.

Response to Arguments

Applicant's arguments filed on July 29, 2008 have been fully considered but they are not persuasive.

Applicant asserts that Ness teaches solid polymer particles rather than hollow capsules, and seems to suggest that the perfume used in the prior art is in the form of solid. However, as discussed in the above rejection, the reference clearly indicates that liquid perfume materials are used. Thus the Ness/Bacon references still render the present invention obvious.

Conclusion

No claims are allowed.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GINA C. YU whose telephone number is (571)272-8605. The examiner can normally be reached on Monday through Friday, from 9:00AM until 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sharmila Landau can be reached on 571-272-0614. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gina C. Yu/
Primary Examiner, Art Unit 1611